
Remarks/Arguments

Claims 1, 4, 6, 7, 9, 13, 15, 18, and 21 are currently amended. Claims 30 and 31 are new. Claims 2, 3, 8 and 24 are cancelled without prejudice. The remaining claims are original or previously presented claims as noted above.

Support for the amendments to claims 1, 4, 6, 7, 9, 13, 15, 18, and 21 and new claim 30 may be found, for example, at paragraphs 99 and 100 of the specification as originally filed. New claim 31 is supported in the specification as filed, for example, in original claim 15, and at paragraphs 91 and 97-100 of the specification as originally filed. It is respectfully submitted that all other amendments to the claims are supported by the specification as originally filed and no new matter has been added as a result of the amendments.

The Examiner rejected claims 1-29 under 35 USC 102(e) as anticipated by US 2002/0112078 A1 to Yach. The Applicant respectfully submits that all claims currently of record are patentable over Yach for the reasons noted below.

As recited in MPEP 2131, a claim is anticipated “only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). [emphasis added]

Currently amended claim 1 recites “querying operating system software executing at said wireless mobile device as to whether said software component identified in said text file is available at said device; and if said querying indicates that said software component is available at said wireless mobile device, executing said software component at said device.” Yach does not disclose a virtual machine operable to query operating system software to determine whether a software component, not part of the

virtual machine itself, is present on a particular device. For this reason, it is respectfully submitted that Yach does not anticipate claim 1.

Moreover, as detailed below, Applicant asserts that the Examiner's position that Yach discloses the elements "representation of a text file" and "receiving data from said application" is incorrect because the Examiner improperly relies on the same feature of Yach as showing two distinct limitations of claim 1.

From the Final Action, page 4, it is clear that the Examiner considers the claim feature of a "representation of a text file" to be shown in Yach by whatever "WWW content" is ultimately received at the client device. According to the abstract of Yach, excerpted below, this content takes the form of a "virtual machine language program" into which the WWW content is translated:

"... A translation component receives the information from the host system and translates the information from a plurality of content types into a virtual machine language program. The virtual machine language program is then transmitted to the client device, which executes the virtual machine language program in order to display and interact with the information." [emphasis added]

From Yach para. 0007, it can be seen that the term "virtual machine program" is used interchangeably with "virtual machine language program". Accordingly, based on the above, it is clear that the claim 1 limitation "representation of a text file" is considered to be shown by Yach's "virtual machine language program" (or "virtual machine program"), which constitutes the translated content transmitted to the client device.

However, it is also stated in the Final Action that Yach's disclosure of "receiving program directly from file explorer..." as disclosed in Fig. 3 and para. 0047 of that reference shows the claim 1 feature "receiving data from said application" (see page 5 of the Office Action). The Examiner's reference to a "program" is understood to be an abbreviation of the term "VM program" from Yach paragraph 0047. Accordingly, the

Examiner's position is that the claim limitation "data from said application" is also disclosed by Yach's "virtual machine program".

Yet the "virtual machine program" limitation has already been relied upon as purportedly showing the distinct claim 1 feature "representation of a text file". It is not open to the Examiner to "re-use" the same feature of Yach as the basis for a purported disclosure of a distinct feature of the same claim. Accordingly, for this reason as well, it is submitted that claim 1 is not anticipated by Yach.

The Applicant also notes that, in rejecting claim 1, the Examiner suggests, at page 4 of the Office Action, that the "web browser application" referred to in para. 0002 of Yach constitutes the "application" of claim 1. Yet, para. 0002 specifically states that the invention of Yach is effected "without the need for a traditional web browser application (or some other form of content interpretation application) operating at the client machine." Moreover, there is no "web browser" at the host device. Accordingly, the Applicant fails to appreciate how something that not shown in either of the host device or the client device of Yach can possibly be relied upon as showing a claim feature.

On the basis that claim 1 is not anticipated by Yach, claims 2-14, which depend from claim 1, are also not anticipated by Yach.

Currently amended claim 15 recites: "instructions for querying said operating system software as to whether a software component, which is identified in said text file and is separate from said virtual machine software, is available at said wireless mobile device" and "an event handler for processing events ... said event handler operable to execute said software component separate if, upon executing said instructions, it is determined that said software component is available at said wireless mobile device." It is respectfully, submitted that Yach fails to disclose this limitation and claim 15 is not anticipated by Yach.

Moreover, the Applicant respectfully submits that the Examiner's interpretation of the following claim elements "virtual machine software", "text file", "parser", and "screen generation engine" is not justified for the reasons noted below.

First, if Yach's "virtual machine language program" purportedly discloses the "virtual machine software" limitation of claim 15, as seems to be alleged at page 7 of the Final Action, then it is unclear what discloses the "text file" limitation of claim 15. As noted above, the same feature of Yach cannot be relied upon to show two distinct claim limitations.

Furthermore, the Examiner's suggestion that Yach's "VM interpreter" constitutes the "parser" of claim 15 evidences a fundamental flaw in the Examiner's reasoning, as follows. It is clear that the "parser" element is recited in claim 15 as "comprising" the "virtual machine software". Accordingly, if Yach's "virtual machine language program" is taken to show the "virtual machine software" limitation, as the Examiner apparently suggests, then whatever in Yach purportedly discloses the "parser" limitation would need to comprise the virtual machine language program of Yach in order for claim 15 to be anticipated. As noted above, the Examiner has suggested that the "VM interpreter" of Yach is the parser. Yet, there is no evidence in Yach that the VM interpreter "comprises" any part of the "virtual machine language program". To the contrary, a VM interpreter is conventionally a separate entity from that which is interpreted. Accordingly, it is unclear how the Examiner could possibly believe that the VM interpreter "comprises" the "virtual machine language program" of Yach, as would be required for the rejection of claim 15 to be proper.

Yet further, as to the Examiner's apparent suggestion that the "screen generation engine" limitation of claim 15 is disclosed by the "byte code generator" of Yach, the Applicant wishes to emphasize that the byte code generator is not resident at the client device of Yach. Rather, it is part of a wholly separate host device (see block 200 in FIG. 1 and the whole of FIG. 2, which sets forth a "more detailed schematic of the translation component 200 shown in FIG. 1" per Yach para. 0035).

Accordingly, for these reasons as well, it is respectfully submitted that claim 15 is not anticipated by Yach.

On the basis that claim 15 is not anticipated by Yach, claims 16-30, which depend from claim 15, are also not anticipated by Yach.

New claim 31 has been added. Claim 31 is directed to a wireless mobile device and recites:

“specifying execution of a software component separate from said virtual machine software at said wireless mobile device, said text file identifying said software component;

an instance of an object class instantiated based upon, and corresponding to, said action;

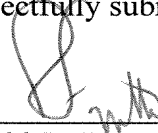
...

an event handler for processing events arising in response to user interaction with said at least one screen in accordance with said text file, said event handler operable to execute said software component by way of said instance.”

It is respectfully submitted that Yach does not disclose the above noted features and accordingly claim 31 is patentable over Yach.

Based on the foregoing, it is believed that the present application is in allowable form. Early favorable reconsideration of the application is therefore earnestly solicited.

Respectfully submitted,



Ronald D. Faggetter
Registration No. 33,345

SMART & BIGGAR
438 University Avenue
Suite 1500, Box 111
Toronto, Ontario
Canada M5G 2K8
Telephone: (416) 593-5514
Facsimile: (416) 591-1690

Date: October 14, 2008
RDF/JJF 93422-49